

FILED
Clerk
District Court

MAY 15 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

TOSHIHIRO TAKAHASHI,
Plaintiff,

vs.

MAEDA PACIFIC CORPORATION,
Defendant.

CIVIL ACTION NO. CV 05-0026

JOINTLY PREPARED FINAL PRETRIAL
ORDER

Takahashi, Toshihiro, Plaintiff, and Maeda Pacific Corporation, Defendant, submit this
Final Pretrial Order through their respective counsel:

(a) The firm trial date:

The parties are prepared to proceed on May 30, 2006, which has been reserved with the
Court.

(b) Stipulated and uncontroverted facts:

1. The Plaintiff, Toshihiro Takahashi, is a resident of Japan and the majority shareholder of
Marianas Sunrise Enterprises, Inc. d/b/a Remington's Club.

2. Defendant Maeda Pacific Corporation is a corporation authorized to do business in the Commonwealth and is engaged in the construction business.

3. Maeda Pacific entered into an Agreement with the CNMI Government to undertake construction of what is known as the Garapan Revitalization Project.

4. The Agreement between the CNMI Government and Defendant Maeda Pacific Corporation required Maeda Pacific to provide all material, labor, equipment, tools and services necessary to complete the Garapan Revitalization Project in a workmanlike manner.

5. The Agreement stated that Maeda Pacific Corporation conducted the Scope of Work as an independent contractor.

6. The Agreement required the Defendant to take all precautions necessary to protect persons and property including, but not limited to, providing, erecting, and maintaining all necessary barricades, suitable and sufficient red lights, danger signals, and signs.

7. Defendant performed under the Agreement and reconstructed Coral Tree Avenue.

8. During the time of construction under the Agreement, sometime in March, 2005 Defendant, its agents, and employees were constructing, at least in part, the sidewalk in front of Remington's Club, the southern part of Coral Tree Avenue pursuant to the Agreement.

9. On March 17, 2005 two pieces of PVC pipe protruded from the sidewalk area at the southern part of Coral Tree Avenue. The pipes were adjacent to each other, one being taller than the other.

10. On March 17, 2005 Plaintiff came in contact with one of the pieces of the pipe and sustained injury to his right lower leg.

11. On March 17, 2005 Plaintiff fell to the ground and sustained an injury to his right shoulder.

12. Plaintiff has received medical treatment for the injuries sustained on March 17, 2005.

13. The Parties accept the exchange rate listed on the www.exchangerate.com website for the conversion of Japanese yen to U.S. dollars at the time of trial as the appropriate rate exchange.

B. List of Issues to be Tried

1. Whether Defendant Maeda Pacific Corporation negligent.

2. If Defendant Maeda Pacific Corporation was negligent, whether such negligence was a substantial factor in Plaintiff sustaining injury.

3. Whether Plaintiff, Toshihiro Takahashi was comparatively at fault and if so, the extent of his comparative fault.

4. If Plaintiff is entitled to compensation, the amount Plaintiff is entitled to recover.

(d) Disclosure of all witnesses:

Plaintiff's Witnesses:

Keith C. Ada

Dr. Norma Ada

Dr. H. Elizabeth Brown, Expert

Mika Isayama

Wei Dong Ji

Randy Jacob

Linus Mizutani

Dexter Macaranas

Dr. Kozo Murago

Thomas A. Nielson

Murayama Nobuhiro

Dr. Okuhara

Dr. John Pangelinan

Dr. Suzu Seikotsuin Sakura

Dr. Taketoshi Suzu

Enrique Tabada

Toshihiro Takahashi

Fernando Tamboc

Shinji Yokote

1 Zhang Yun

2 All witnesses listed by Defendant

3 All persons whose testimony becomes necessary and relevant for impeachment purposes rebuttal
4 purposes, or for any other legal purpose during trial.

5 Plaintiff reserves the right to amend its witness list prior to trial.

6 Document custodians, if necessary.

7 Defendant's Witnesses:

8 Defendant identifies the following who will or may be called to testify at trial:

9 Thomas A. Nielsen

10 Enrique Tabada

11 Fernando Tamboc

12 Dr. Norma S. Ada

13 Dr. Al Alou

14 Medical Records Custodian for Pacific Medical Center

15 Medical Records Custodian for Saipan Health Clinic

16 Medical Records Custodian for Medical Associates of the Pacific, LLC

17 All witnesses listed by Plaintiff

18 All persons whose testimony becomes necessary and relevant for impeachment purposes,
19 rebuttal purposes or for any other legal purpose during trial

20 Defendant reserves the right to amend its witness list prior to trial.

21 **(e) Listing and exchange of copies of all exhibits:**

22 Both parties reserve the right to amend this exhibit list prior to trial. In addition, several
23 depositions were recently taken in this case or are planned and transcripts have not been prepared
24 yet. The parties may supplement their exhibit lists once additional transcripts are prepared.
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1 Plaintiff's Exhibits:

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3 Number Description

- 4 1. Answer of Maeda Pacific Corporation, August 8, 2005.
- 5 2. Report of H. Christine Brown, M.D. and supporting documentation, April 21,
- 6 2006.
- 7 3. Interview and examination of Mr. Toshihiro Takahashi, April 19, 2006.
- 8 4. Medical records from Pacific Medical Center, March 18, 2005.
- 9 5. Records of treatment from Murao Clinic, March 22, 2005 to April 1, 2006.
- 10 6. Medical Records from Dr. John Pangelinan from Saipan Health Center, March 18,
- 11 2005.
- 12 7. Evaluation of right hand x-ray from Saipan Health Center, May 27, 2005.
- 13 8. Medical Records from Dr. Norma Ada from Medical Associates of the Pacific,
- 14 September 12, 2005.
- 15 9. Receipts and Medical Certification from Dr. Suzu Sakara from Osteopath Clinic,
- 16 April 16, 2005 through March 25, 2006 and receipt of treatment machine.
- 17 10. Articles of Incorporation of Maeda Pacific Corporation.
- 18 11. DPW General Conditions - Construction Contract.
- 19 12. Annual Corporation Report for Maeda Pacific Corporation, Feb. 21, 2005.
- 20 13. Maeda Pacific Corporation's Insurance Policy.
- 21 14. Marianas Sunrise Enterprises, Inc., BGRT, Feb. 10, 2006.
- 22 15. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, Feb. 10, 2006.
- 23 16. Marianas Sunrise Enterprises, Inc., BGRT, Dec. 30, 2005.
- 24 17. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, Dec. 30, 2005.
- 25 18. Marianas Sunrise Enterprises, Inc., BGRT, Nov. 30, 2005.
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19. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, Nov. 30, 2005.
20. Marianas Sunrise Enterprises, Inc., BGRT, June 5, 2005.
21. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, June 5, 2005.
22. Marianas Sunrise Enterprises, Inc., BGRT, January 12, 2005.
23. Marianas Sunrise Enterprises, Inc., BGRT, November 1, 2004.
24. Marianas Sunrise Enterprises, Inc., BGRT, August 2, 2004.
25. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, August 2, 2004.
26. Marianas Sunrise Enterprises, Inc., BGRT, April 30, 2004.
27. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, April 30, 2004.
28. Marianas Sunrise Enterprises, Inc., BGRT, January 15, 2004.
29. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, January 15, 2004.
30. Marianas Sunrise Enterprises, Inc., BGRT, October 20, 2003.
31. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, October 20, 2003.
32. Marianas Sunrise Enterprises, Inc., BGRT, August 28, 2003.
33. Marianas Sunrise Enterprises, Inc., BGRT, July 31, 2003.
34. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, July 31, 2003.
35. Marianas Sunrise Enterprises, Inc., BGRT, April 30, 2003.
36. Marianas Sunrise Enterprises, Inc., Official Cash Receipt, April 30, 2003.
37. Picture of Plaintiff's right index finger, May 28, 2005.
38. Picture of sidewalk in front of Remington's Club, the southern part of Coral Tree Avenue, April 13, 2005.
39. Picture of metal pipe, March 18, 2005.

- 1 40. Picture of metal pipe with two individuals, March 18, 2005.
- 2
- 3 41. Picture of northward view of sidewalk in front of Remington's Club, the southern
- 4 part of Coral Tree Avenue, April 13, 2005.
- 5 42. Picture of right shoulder of Plaintiff, March 18, 2005.
- 6 43. Picture of right leg of Plaintiff, March 18, 2005.
- 7 44. Picture of right leg of Plaintiff and metal pipe, March 18, 2005.
- 8 45. Picture of Plaintiff, March 18, 2005.
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- 10 46. Picture of Plaintiff's right hand, May 28, 2005.
- 11 47. Picture of Plaintiff's right hand with bandage, May 28, 2005.
- 12 48. Picture of Plaintiff's hands, April 15, 2005.
- 13 49. Picture of Plaintiff's right hand, April 15, 2005.
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- 15 50. Picture of Plaintiff's hands, May 28, 2005.
- 16 51. Picture of Plaintiff's right leg, April 13, 2005.
- 17 52. Picture of eastward view of sidewalk in front of Remington's Club, the southern
- 18 part of Coral Tree Avenue, March 18, 2005.
- 19 53. Picture of southward view of sidewalk in front of Remington's Club, the southern
- 20 part of Coral Tree Avenue, April 13, 2005.
- 21 54. Picture of right shoulder of Plaintiff, April 13, 2005.
- 22 55. Picture of right shoulder of Plaintiff, April 13, 2005.
- 23 56. Picture of Plaintiff's right hand with bandage, May 28, 2005.
- 24 57. Picture of Plaintiff's right shoulder and right hand, April 15, 2005.
- 25 58. Picture of southward view of sidewalk in front of Remington's Club, the southern
- 26 part of Coral Tree Avenue, April 13, 2005.
- 27
- 28

59. Picture of two pipes, April 13, 2005.

60. Picture of two pipes, March 18, 2005.

61. Picture of eastward view of sidewalk in front of Remington's Club, the southern part of Coral Tree Avenue, March 18, 2005.

62. Picture of southward view of sidewalk in front of Remington's Club, the southern part of Coral Tree Avenue, undated.

Defendant's Exhibits:

Defendant identifies the following exhibits which will or may be introduced at trial:

1. Medical records of Toshihiro Takahashi from Pacific Medical Center.
2. Medical records of Toshihiro Takahashi from Saipan Health Clinic.
3. Medical records of Toshihiro Takahashi from Medical Associates of the Pacific, LLC.
4. 24 photographs of the area of the scene of the accident.
5. Photograph of the area of the scene of the accident dated February 26, 2005.
6. Shoes being worn by Plaintiff at the time of the accident.
7. Any exhibit marked by Plaintiff.
8. All exhibits which may become necessary and relevant for impeachment purposes, rebuttal purposes or any other legal purposes during trial.
9. Defendant reserves the right to amend this exhibit list prior to trial.

(f) Pretrial rulings, where possible, on objections to evidence:

None to date.

(g) Disposition of all outstanding motions:

None pending. Plaintiff anticipates that James Livingstone will file a motion to appear in this case on his behalf *pro hac vice* shortly.

Defendant anticipates filing *motions in limine* to exclude evidence pursuant to L.R. 16.2CJ.e.(7)(a)(1). Such motions will be filed and served no later than fourteen (14) days before the first scheduled trial date.

(h) Elimination of unnecessary or redundant proof, including

limitations on expert witnesses:

None by Plaintiff. For Defendant, see *Motions In Limine* to be filed by Defendant.

(I) Itemized statements of all damages by all parties:

The Plaintiff is the only party seeking damages in this action. He seeks the following damages against the Defendant, Maeda Pacific Corporation:

<u>Damage Description:</u>	<u>Amount Sought:</u>
1. Damages for bodily injuries, pain and suffering, emotional distress, mental anguish and diminished quality of life:	\$300,000.00.
2. Reimbursement for necessary and reasonable medical expenses incurred from the time of the accident to the present:	At least \$10,000
3. Reimbursement for necessary and reasonable medical expenses for the remainder of Plaintiff's life:	At least \$20,000
4. Lost revenues:	At least \$32,000

Defendant denies that Plaintiff is entitled to recover any damages at trial of the case. See *Motions In Limine* to be filed by Defendant related to exclusion of evidence of medical expenses, future medical expenses and loss of revenue.

(j) Bifurcation of the trial:

None.

(k) Limits on the length of trial:

The parties anticipate that this trial will be completed in three to four days.

(l) Jury selection issues:

None.

(m) Any issue that in the judge's opinion may facilitate and expedite

1 the trial, for example the feasibility of presenting testimony by

2 a summary written statement:

3 None.

4 (n) The date when proposed jury instructions shall be submitted to

5 the court and opposing counsel, which, unless otherwise ordered, shall be the first day of

6 the trial: The parties will submit their proposed jury instructions on the first day of trial.

7 The parties will submit their proposed jury instructions on the first day of trial.

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9 IT IS SO STIPULATED.


10 TORRES BROTHERS, LLC.

11
12 DATED: Saipan, MP, May 15, 2006.

13 
14 VICTORINO DLG. TORRES
15 Counsel for Plaintiff

16 CARLSMITH BALL LLP

17 DATED: Saipan, MP, May 15, 2006.

18 
19 JOHN D. OSBORN
20 Attorneys for Defendant
21 Maeda Pacific Corporation

22 IT IS SO ORDERED.

23 DATED: 5-15-06

24 
25 ALEX R. MUNSON
26 JUDGE

27 RECEIVED

28 MAY 15 2006

Clerk
District Court
The Northern Mariana Islands